

MEMORANDUM OF UNDERSTANDING

between

THE MONTEREY COUNTY WATER RESOURCES AGENCY

and

THE COUNTY OF MONTEREY

regarding

PERFORMANCE OF SERVICES

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THE MONTEREY COUNTY WATER RESOURCES AGENCY

and

THE COUNTY OF MONTEREY

regarding

PERFORMANCE OF SERVICES

WHEREAS, the County of Monterey (“County”) is a political subdivision of the State of California with duties and responsibilities set forth in various provisions of the California Constitution, and state laws and regulations; and

WHEREAS, the Monterey County Water Resources Agency (“WRA”) is a special act agency of the State of California with duties and responsibilities set forth in Chapter 52 of the California Water Code Appendix (“WRA Act”), and is the successor to the Monterey County Flood Control and Water Conservation District; and

WHEREAS, the County and the WRA (separately a “Party,” collectively the “Parties”) are separate legal entities, with separate and distinct duties and responsibilities as set forth in their respective organic laws; and

WHEREAS, the County is governed by an elected Board of Supervisors; and

WHEREAS, the WRA is governed by the same Board of Supervisors sitting ex officio as the Board of Supervisors of the Water Resources Agency; and

WHEREAS, the WRA also has a Board of Directors which is advisory to the Board of Supervisors of the WRA, but which also has certain final authority as more fully set forth in the WRA Act; and

WHEREAS, from time-to-time the County performs certain services for the WRA, and from time-to-time the WRA performs certain services for the County; and

WHEREAS, the provision of services by each to the other has historically been undertaken without formal written agreement regarding how and when the services would be provided, and without formally addressing the compensation for the services; and

WHEREAS, it is the desire of both the County and the WRA to more clearly set forth the services that each will provide to the other, and the basis upon which any such services will be compensated.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the County and the WRA agree as follows:

1. Effective date and term.

This Memorandum of Understanding (“MOU”) shall be effective on the date last signed by either of the parties, and shall continue in effect unless terminated as set forth in Section 4, below.

2. Definitions.

The definitions set forth in this MOU shall apply herein and in the attached Appendices, unless otherwise indicated. Other definitions may be set forth in the attached Appendices.

3. Services to be provided.

The County shall provide such services to the WRA, and the WRA shall provide such services to the County, on the terms and conditions as more specifically set forth in the Appendices to this MOU, which are attached hereto and incorporated herein by reference. Appendices may be amended, added, or deleted from time-to-time upon the mutual agreement of the Parties.

The party performing such services shall be referred to as the “Performing Party,” and the party receiving such services shall be referred to as the “Receiving Party.”

4. Termination.

This MOU, or any of the Appendices, may be terminated by either party for any reason or no reason upon the giving of sixty (60) days written notice to the other party, such notice to be delivered as provided in Section 6, below. The effective date of the termination shall be in the notice provided by the terminating party, but in no event shall be earlier than the time required for effective notice. Any sums due for the performance of services by the Performing Party through the date of termination shall be paid by the Receiving Party.

5. Defense and Indemnification.

The Performing Party shall defend and indemnify the Receiving Party from and against any claim, cost or expense of any kind, including litigation expenses and attorney’s fees, arising out of the negligent performance of services by the Performing Party, such defense and indemnification obligation to be in proportion to the comparative negligence

of each party. Should either party declare that it will not provide a defense and indemnification pursuant to this Section on the basis that it believes it has not been negligent, or for any other reason, the other party may proceed to defend against any such claim at its own expense, but its rights to a defense and indemnification shall be reserved to be determined in any court proceeding or mutual agreement.

6. Notices.

All notices regarding performance under this MOU shall be sent by hand delivery, electronic mail, or U.S. mail (certified mail, return receipt requested and postage prepaid) to the persons and addresses listed below. Either party may change the designated person by notice to the other party. If sent by U.S. mail, delivery shall be presumed five (5) days following deposit with the U.S. Postal Service.

County of Monterey

Monterey County Water Resources Agency

CAO
163 W. Alisal St., Third Floor
Salinas, CA 93901
baumanl@co.monterey.ca.us

General Manager
1441 Schilling Pl., North Bldg.,
Salinas, CA 93901

Copy to:

Copy to:

Charles J. Mckee, County Counsel
163 W. Alisal St., Third Floor
Salinas, CA 93901
mckeecj@co.monterey.ca.us

Kelly L. Donlon, Deputy County Counsel
163 W. Alisal St., Third Floor
Salinas, CA 93901
donlonkl@co.monterey.ca.us

IN WITNESS WHEREOF, COUNTY and WRA execute this agreement as follows:

THE COUNTY OF MONTEREY

MONTEREY COUNTY WATER RESOURCES AGENCY

By _____

By _____

Lew C. Bauman
County Administrative Officer

Interim General Manager

Dated: January ____, 2019

Dated: January ____, 2019

APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

By _____
Leslie J. Girard
Chief Assistant County Counsel

APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

By _____
Kelly L. Donlon
Deputy County Counsel